



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
1100 Commerce Street
Dallas, TX 75242

501.03-00

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Date: April 30, 2012

Release Number: **201241009**

Release date: 10/12/2012

LEGEND

ORG - Organization name

XX - Date Address - address

ORG

ADDRESS

Person to Contact:

Badge Number:

Contact Telephone Number:

Contact Address:

Employer Identification Number:

CERTIFIED MAIL

Dear _____ :

This is a final adverse determination regarding your exempt status under section 501(c) (3) of the Internal Revenue Code (the Code). Our favorable determination letter to you dated January 2008 is hereby revoked and you are no longer exempt under section 501(a) of the Code effective July 1, 20XX.

The revocation of your exempt status was made for the following reason(s):

Your primary activity and purpose during 20XX has considered of the operation of bingo games. These activities, in and of themselves, do not further an exempt purpose and comprise more than an insubstantial amount of your activities during 20XX. Accordingly, you have demonstrated that you are operated exclusively for exempt purposes as described in Internal Revenue Code section 501(c)(3). See Treas. Reg. section 1.501(c)(3)-1(a).

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code, effective July 1, 20XX.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the year ending August 31, 20XX, and for all the tax years thereafter in accordance with instructions of the return.

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of section 7428 of the Code in one of the following three venues: United States Tax Court, the United States Court of Federal Claims, or the United States District Court for the District of Columbia. A petition in one of these three courts must be filed before the 91st day after the date that this determination was mailed to you if you wish to seek review of our determination. Please contact the clerk of the respective court for rules regarding filing petitions for declaratory judgment by referring to the enclosed Publication 892. Please note that the United States Tax Court is the only one of these courts where a declaratory judgment action

can be pursued without the services of a lawyer. You may write to the United States Tax Court at the following address:

Please understand that filing a petition for a declaratory judgment under IRC section 7428 will not delay the processing of subsequent income tax returns and assessment of any taxes due.

You also have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll free, 1-877-777-4778, and ask for the Taxpayer Advocate assistance. If you prefer, you may contact your local Taxpayer Advocate at:

Taxpayer Advocate assistance cannot be used as substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determination, nor extend the time fixed by law that you have to file a petition in Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

This letter should be kept within your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Enclosures:
Publication 892

Internal Revenue Service
Tax Exempt and Government Entities Division
Exempt Organizations: Examinations
55 N. Robinson MC 4900 OKC
Oklahoma City, OK 73102

Department of the Treasury

Date: December 7, 2011

ORG
ADDRESS

Taxpayer Identification Number:
Form:
Tax Year(s) Ended:
Person to Contact/ID Number:
Contact Numbers:
Telephone:
Fax:

Certified Mail – Return Receipt Requested

Dear _____ :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its

administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 20XX08	

LEGEND

ORG - Organization name XX - Date Address - address City - city State - state
Game - game CO-1, CO-2 & Co-3 - 1st, 2nd & 3rd COMPANIES

Issues:

1. Whether ORG did operate exclusively for exempt purposes described within Internal Revenue Code section 501(c)(3) for the year under exam.
 - a. Whether ORG did operate for the primary purpose of carrying on a trade or business for profit.
 - b. Whether more than an insubstantial part of ORG activities are in furtherance of a non-exempt purpose?

Facts:

ORG ("ORG") was incorporated under the laws of the State of State as a nonprofit corporation on January 6, 19XX. In a determination letter dated February 23, 19XX ("ORG") the service determined ("ORG") to be exempt from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

In its Articles of Incorporation, ("ORG") stated the purposes for which the corporation is organized are:

1. To increase public understanding of substance abuse and chemical dependency, its nature, control and remedy.
2. To establish and maintain centers for the collection, formulation and dissemination of information bearing on problems of substance abuse and chemical dependency.
3. To support clinics for the medical and psychiatric diagnosis and treatment of chemically dependent individuals, for research in substance abuse and dependency, and for the training of staff and such other interested persons as its resources may permit.
4. To promote the creation of hospital and related facilities for the treatment of victims of chemical dependency.
5. To conserve the resources of the community by improved application of such resources to the problems of chemical dependency.
6. To accept, receive and acquire funds, stocks, securities and property by donations, bequests, devises, or otherwise, and to use, hold, invest, re-invest, convert, sell, transfer, mortgage, pledge and dispose of any and all funds, stocks, securities and properties so accepted, received or acquired for the furtherance or accomplishment of the purposes of this corporation.
7. To do all acts and exercise all powers and assume all obligations necessary or incident to the purposes of said corporation.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 20XX08	

Reported Financial Information on Form 990 20XX08

Part III Gaming.

		(a) Game	(b) Pull tabs/instant Game/progressive Game	(c) Other gaming	(d) Total gaming (add col. (a) through col. (c))
Revenue	1. Gross Revenue				
	2. Cash Prizes				
Direct Expenses	3. Noncash prizes				
	4. Rent/facility costs				
	5. Other direct expenses				
	6. Volunteer labor	X No	X No		
	7. Direct expense summary. Add lines 2 through 5 in column (d)				
	8. Net gaming income summary. Combine line 1, column (d), and line 7				

Non Exempt Activity Description

The address shown on Form 990 return is Address, City, State. This is the location of CO-1 where GAME is played.

("ORG") did not perform any exempt activities for the year of audit. ("ORG") did make a contribution in the amount of \$ to CO-2 for Addictive and Other Diseases and a \$ contribution to CO-3 of City. ("ORG")'s sole activity was GAME. Total gross revenue was \$ of which \$ is Instant GAME. Instant GAME is reported of Form 990-T as unrelated income subject to the Unrelated Business Income Tax. ("ORG") did file Form 990-T for tax year ending August 31, 20XX reporting its unrelated business activity. ("ORG") did not receive any contributions or grants for the year of exam. All GAME activity was conducted with paid workers.

Note: State of State requires GAME licensed holders to make contributions to charities in order to maintain their license.

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Law:

Section 501(a) of the Internal Revenue Code provides that an organization described in section 501(c)(3) is exempt from income tax.

Section 501(c)(3) of the Code exempts from federal income tax corporations organized and operated exclusively for charitable, educational, and other purposes, provided that no part of the net earnings inure to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the regulations provides that, in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities that accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. The existence of a substantial nonexempt purpose, regardless of the number or importance of exempt purposes, will cause failure of the operational test. Better Business Bureau of Washington, D.C. v. U.S., 326 U.S. 279 (1945).

IRC § 502. Feeder organizations

(a) General rule.—An organization operated for the primary purpose of carrying on a trade or business for profit shall not be exempt from taxation under section 501 on the ground that all of its profits are payable to one or more organizations exempt from taxation under section 501.

(b) Special rule.—For purposes of this section, the term "trade or business" shall not include—

- (2)** any trade or business in which substantially all the work in carrying on such trade or business is performed for the organization without compensation, or

Revenue Ruling 61-170, 1961-2 CB 112 ruled that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Revenue Ruling 70-4, 1970-1 CB 126 ruled that Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for educational purposes. Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

In Better Business Bureau of Washington D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. The Court found that the

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trade association had an "underlying commercial motive" that distinguished its educational program from that carried out by a university.

Taxpayer's Position:

Taxpayer has not stated their final position at the time of this report.

Government's Position:

It is the Government's position that ("ORG") is not operated as an organization described in section 501(c)(3) of the Internal Revenue Code. The address shown on Form 990 return (Address, City, State) is CO-1 where GAME is played. ("ORG")'s sole activity is GAME. GAME is not an exempt activity. In Better Business Bureau of Washington D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. Fifty Five percent (%) of ("ORG")'s Gross Revenue is from Pull tabs/instant Game. Instant GAME is a trade or business for profit and is an unrelated exempt activity. ("ORG") did not receive any contribution or grants for the year of exam. All GAME activity was conducted with paid workers. IRC 502 specifically provides that an organization operated for the primary purpose of carrying on a trade or business for profit shall not be exempt under 501 on the ground that all of its profits are payable to organizations which do qualify under IRC 501.

Note: Examination revealed no exempt activity what so ever in year of exam.

Conclusion:

("ORG") is not operating exclusively for purposes specified in IRC 501(C)(3) and is not exempt from income tax under section 501, effective September 1, 20XX. In order to be treated as a 501(c)(3) the exempt organization must in operation perform an exempt activity related to it's exempt purpose. This organization during the year of exam performed no exempt activity and fails the operation test. Therefore; we propose revocation.

If you agree to the proposed revocation, please sign form 6018, and mail back to the person listed in the attached letter, with in 30 days of receipt of this letter. If you do not agree to the proposed revocation please refer to the letter and attached publications for the appeals process, or contact the person listed in the letter.

If this proposed revocation is upheld, Form 1120 U.S. Corporation Income Tax Return should be filed for tax years ending beyond the date of revocation.